

## **REMARKS**

### **Status of the claims:**

With the above amendments, claims 4-20 are added, and claims 1-20 are pending and ready for further action on the merits. No new matter has been added by way of the above amendments. Support for the new claims 4-20 can be found in the written description and claims as originally filed. Reconsideration is respectfully requested in light of the following remarks.

### **Examiner Interview:**

Applicant and Applicant's representative would like to thank the Examiner for taking time for an interview on July 28, 2005. The gist of the interview was substantially as it appears in the Interview Summary form.

### **Rejections under 35 U.S.C. § 102**

Claims 1-3 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Terranova '464 (US Patent No. 6,422,464). Applicant traverses.

The instant invention as recited in claim 1 relates to a method of validating a customer in a retail membership club, the method comprising:

receiving a membership validation request, including identifying indicia, from a remote retail location, the identifying indicia being extracted from an identification document of a user by an identification document reader at the remote retail location;

querying a remote database for validation of the customer;

receiving an indication of membership validation from the database;  
and

transmitting the indication to the remote retail location. As recited in claim 7, the identification document is not used for prepayment.

Applicant respectfully submits that Terranova '464 cannot anticipate the instant invention because Terranova '464 fails to disclose the elements of the instantly claimed invention. The Examiner is reminded that "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant respectfully submits that each and every element as set forth in the claims is not found (either expressly or inherently) in Terranova '464. For example, Terranova '464 fails to disclose either expressly or inherently a method of validating a customer in a retail membership club as is recited in claim 1 of the instant invention. Moreover, Terranova '464 fails to disclose either expressly or inherently querying a remote database for validation of the customer, or receiving an indication of membership validation from the database. For these reasons alone, Terranova '464 can not anticipate the instant invention. The rejection is inapposite. Withdrawal of the rejection is warranted and respectfully requested.

#### **Obviousness-Type Double Patenting**

Claims 1-3 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims 24 and 27 of co-pending application No. 10/347,731. Attached to this response please find a terminal disclaimer disclaiming any

terminal portion of a patent that may result from this application that extends beyond the term of co-pending application No. 10/347,731 (with the conditions set forth in the terminal disclaimer). Applicant believes that this terminal disclaimer obviates this rejection. Withdrawal of the rejection is warranted and respectfully requested.

### **CONCLUSION**

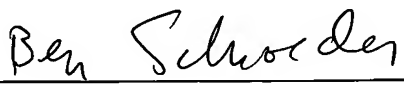
With the above amendments and remarks, Applicant believes that all objections and/or rejections have been obviated. Thus, each of the claims remaining in the application is in condition for immediate allowance. A passage of the instant invention to allowance is earnestly solicited.

Applicant respectfully petitions for two months extension of time. Applicant believes that no fee is necessary, however, should a fee be deemed to be necessary, the Commissioner is hereby authorized to charge any fees required by this action or any future action to Deposit Account No. 16-1435.

Should the Examiner have any questions relating to the instant application, the Examiner is invited to telephone the undersigned at (336) 607-7486 to discuss any issues.

Respectfully submitted,

Date: August 23, 2005

  
T. Benjamin Schroeder (Reg. No. 50,990)

KILPATRICK STOCKTON LLP  
1001 West Fourth Street  
Winston-Salem, North Carolina 27101-2400  
Phone: (336) 607-7486  
Facsimile: (336) 607-7500